

# EXHIBIT 1



LAWYERS' COMMITTEE FOR  
CIVIL RIGHTS  
U N D E R L A W

**ACLU**  
North Carolina

February 21, 2022

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Re: *J4tNG, et al. v. Cole, et al., No. 1:20-cv-00998 (M.D.N.C)*

Dear Counsel:

In keeping with the requirement that the parties hold their Rule 26(f) conference “as soon as practicable,” Fed. R. Civ. P. 26(f)(1), and in advance of the Court’s March 4 deadline for Plaintiffs to serve Defendants a draft revised Rule 26(f) Report, we write to set a time this week to hold a Fed. R. Civ. P. 26(f) conference with respect to the newly-added defendants named in Plaintiffs’ Second Amended Complaint—namely, Chad Martin, Daniel Nichols, James R. McClelland, Randy Denham, David Sykes, Chip Cobb, Peter Triolo, John Strickland, Mark Johnson, Jason Teague, Mark Dockery, Brandon Kilmer, Chandler Weger, James R. McVey, Taylor Hopkins, Duane Flood, Rodney King, Justin Hopkins, Noah Sakin, Scott Neudecker, Eric Jordan, Robert Parks, Joshua Payne, John Way, Keith Kirkman, Chad Boggs, Christopher Denny, and Brandon Land (collectively, the “New Defendants”). Please let us know when you are available for such a conference this week.

With regard to the other matters discussed in Rule 26(f), Plaintiffs’ positions are below.

- “Nature and basis of their claims and defenses and the possibilities for promptly settling or resolving the case” – The Court has previously denied motions to dismiss, and Plaintiffs believe that further motions to dismiss will meet with the same result. The parties have a mediation conference scheduled for March 2, 2022. We expect that the New Defendants will take part in that mediation via their counsel. If that assumption is incorrect, please let us know.
- “[D]isclosures required by Rule 26(a)(1)” – The New Defendants should serve their initial disclosures on or before March 11, 2022.

- “[A]ny issues about preserving discoverable information” – Based on the productions of the existing defendants, Plaintiffs have serious concerns about Defendants’ practices with respect to the preservation of relevant documents and metadata. We hope to discuss those issues with you in more detail during our Rule 26(f) conference.
- Proposed Discovery Plan – Plaintiffs’ position is that the New Defendants should be included in the current schedule with the goal of completing all discovery by the current deadline. Accordingly, we propose the following:
  - March 29, 2022 – Deadline for New Defendants Responses and Objections to Plaintiffs’ Common Requests for Production and Common Interrogatories to All Defendants and First Rolling Document Production in Response to Plaintiffs’ Common Requests for Production and Common Interrogatories to All Defendants<sup>1</sup>
  - April 1, 2022 – Deadline for meet and confer concerning sufficiency of New Defendants Responses and Objections to Plaintiffs’ Common Requests for Production and Common Interrogatories to All Defendants
  - April 11, 2022 – Deadline for filing any motion to compel and/or motion for protective order concerning New Defendants Responses and Objections to Plaintiffs’ Common Requests for Production and Common Interrogatories to All Defendants
  - April 15, 2022 – Deadline for completion of New Defendants’ Document Production in Response to Plaintiffs’ Common Requests for Production and Common Interrogatories to All Defendants

Below are Plaintiffs’ positions with respect to the matters to be addressed at the Rule 26(f) Conference in the Local Civil Rule of the U.S. District Court for the Middle District of North Carolina (the “Local Rules”).

- L.R. 5.4(b)(1) – Plaintiffs believe that it is possible that the parties may attempt to file documents under seal in support of discovery motions and summary judgment motions. Among other things, Plaintiffs anticipate that certain documents may reveal sensitive law enforcement techniques or private information about law enforcement officers. Accordingly, if Defendants take that position, they should draft a Local Rule 5.5 Report for Plaintiffs’ review.
- Possibility of Settlement (L.R. 16.1(b)(2)) - The parties have a mediation conference scheduled for March 2, 2022. We expect the New Defendants will take part in that mediation via their counsel.


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<sup>1</sup> We have noted several deficiencies in Defendants’ document productions that we have addressed under separate cover. If Defendants are withholding relevant and non-privileged documents, we reserve the right to hold depositions open and to seek additional deposition time with deponents that sent, received, authored, or were copied on materials withheld from Defendants’ document production.

- Proper management track (L.R. 16.1(b)(3)) – Plaintiffs do not believe that the current management track of this case needs to be adjusted.
- Timing of mediation (L.R. 16.1(b)(4)) – March 2, 2022
- The nature of the documents and information believed to be necessary for the case (L.R. 16.1(b)(5)) – Plaintiffs believe that the documents and electronically-stored information necessary to their case against the New Defendants include the New Defendants’ work emails, personal emails, social media posts, pictures, and videos related to the October 31, 2020 March to the Polls or concerning any Plaintiff, including, but not limited to, planning for the March, public safety plans, investigation and disciplinary actions taken related to the March and after action reports and training materials discussing the March.
- Issues of burden and relevance and discoverability (L.R. 16.1(b)(6)) – These issues have previously been litigated and negotiated with respect to the existing Defendants. Plaintiffs see no reason why the New Defendants should not have to produce similar documents and electronically stored information.
- A preliminary schedule for depositions (L.R. 16.1(b)(7)) – Attached to this letter as Exhibit A please find a draft deposition notice scheduling all individual Defendants’ depositions in advance of the discovery cut-off. Plaintiffs reserve the right to take Rule 30(b)(6) depositions and third-party depositions. Please let us know if Defendants can be made available on these dates. Attached to this letter as Exhibit B please also find a protocol for taking and defending remote depositions. We would like to discuss this proposed protocol during our Rule 26(f) conference.
- The decisions of each party whether or not to consent to the trial jurisdiction of a Magistrate Judge (L.R. 16.1(b)(8)) – Plaintiffs do not stipulate.

Sincerely,

LAWYERS’ COMMITTEE FOR CIVIL  
RIGHTS UNDER LAW



Elizabeth Haddix  
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Michael Bornhurst  
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**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

JUSTICE FOR THE NEXT  
GENERATION, et al.,

Plaintiffs,

v.

TERRY JOHNSON, individually and  
in his official capacity as Alamance  
County Sheriff, et al.,

Defendants.

**Civil Action No. 1:20-cv-00998**

**PLAINTIFFS' FIRST DEPOSITION NOTICE TO ALL DEFENDANTS**

PLEASE TAKE NOTICE that Plaintiffs, by and through the undersigned counsel, will take the depositions upon oral examination of the individuals listed below pursuant to Federal Rule of Civil Procedure 30, commencing on the dates and times listed below. The depositions will be taken before an officer authorized to administer oaths pursuant to Rule 30 of the Federal Rules of Civil Procedure. The deposition will be recorded stenographically and may be recorded by video. Plaintiffs reserve the right to take these depositions by remote means, including via video conferencing and telephone conferencing, in light of COVID-19. The deposition is being taken for purposes of discovery, for use at trial, and for any other purpose permitted under the Federal Rules of Civil Procedure.

Deponent	Date/Time/Location
Terry S. Johnson	March 24, 2022, 9:30am ET Location: To be Agreed
Taylor Hopkins	March 28, 2022, 1:30pm ET Location: To be Agreed
Cliff Parker	March 29, 2022, 9:30am ET Location: To be Agreed
Chad Boggs	March 30, 2022, 9:30am ET Location: To be Agreed
Joaquin Velez	March 31, 2022, 9:30am ET Location: To be Agreed
Robert Parks	April 4, 2022, 9:30am ET Location: To be Agreed
Barbara Tomey	April 5, 2022, 9:30am ET Location: To be Agreed
Chad Martin	April 6, 2022, 9:30am ET Location: To be Agreed
Daniel Nichols	April 7, 2022, 9:30am ET Location: To be Agreed
James R. McClelland	April 12, 2022, 9:30am ET Location: To be Agreed

Randy Denham	April 13, 2022, 9:30am ET Location: To be Agreed
David Sykes	April 14, 2022, 9:30am ET Location: To be Agreed
Chip Cobb	April 19, 2022, 9:30am ET Location: To be Agreed
Peter Triolo	April 20, 2022, 9:30am ET Location: To be Agreed
John Strickland	April 21, 2022, 9:30am ET Location: To be Agreed
Mark Johnson	April 26, 2022, 9:30am ET Location: To be Agreed
Jason Teague	April 27, 2022, 9:30am ET Location: To be Agreed
Mark Dockery	April 28, 2022, 9:30am ET Location: To be Agreed
Brandon Kilmer	May 3, 2022, 9:30am ET Location: To be Agreed
Chandler Weger	May 4, 2022, 9:30am ET Location: To be Agreed
James R. McVey	May 5, 2022, 9:30am ET

	Location: To be Agreed
Duane Flood	May 10, 2022, 9:30am ET Location: To be Agreed
Rodney King	May 11, 2022, 9:30am ET Location: To be Agreed
Justin Hopkins	May 12, 2022, 9:30am ET Location: To be Agreed
Noah Sakin	May 17, 2022, 9:30am ET Location: To be Agreed
Scott Neudecker	May 18, 2022, 9:30am ET Location: To be Agreed
Eric Jordan	May 19, 2022, 9:30am ET Location: To be Agreed
Joshua Payne	May 24, 2022, 9:30am ET Location: To be Agreed
Keith Kirman	May 25, 2022, 9:30am ET Location: To be Agreed
Christopher Denny	May 26, 2022, 9:30am ET Location: To be Agreed
Brandon Land	May 31, 2022, 9:30am ET Location: To be Agreed



Jonathan R. Franks	June 7, 2022, 9:30am ET  Location: To be Agreed
Mary Kristine Cole	June 9, 2022, 9:30am ET  Location: To be Agreed

Respectfully submitted,

Dated: February 1, 2022

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